

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #7	CCRB Case #: 201803000	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/10/2018 2:38 PM	Location of Incident: 29th Avenue and Utopia Parkway	Precinct: 111	18 Mo. SOL 10/10/2019	EO SOL 10/10/2019	
Date/Time CV Reported Wed, 04/11/2018 9:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/18/2018 11:21 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Iocco	22541	947095	111 PCT
2. POM Sean Buchanan	11740	956464	111 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Hemberger	11888	949092	111 PCT
2. POM Dean Kekovski	25768	938757	111 PCT
3. POM Edward Stine	04849	948107	111 PCT
4. POM Michael Puleo	01769	928994	111 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Iocco	Abuse: Police Officer Eric Iocco questioned § 87(2)(b)	
B.POM Eric Iocco	Abuse: Police Officer Eric Iocco frisked § 87(2)(b)	
C.POM Eric Iocco	Abuse: Police Officer Eric Iocco searched § 87(2)(b) i § 87(2)(b)	
D.POM Eric Iocco	Abuse: Police Officer Eric Iocco searched the vehicle in which § 87(2)(b) i § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Sean Buchanan	Abuse: Police Officer Sean Buchanan searched the vehicle in which § 87(2)(b) and § 87(2)(b) § 87(2)(b) were occupant.	

Case Summary

On April 11, 2018, § 87(2)(b) called the IAB Command Center and filed this complaint on behalf of himself and his nephew, § 87(2)(b). On April 18, 2018, the case was received at the CCRB.

On April 10, 2018, at approximately 2:30 p.m., § 87(2)(b) and § 87(2)(b) were driving in the vicinity of 29th Avenue and Utopia Parkway in Queens, when their vehicle was stopped by Police Officers Sean Buchanan and Eric Iocco of the 111th Precinct. PO Iocco ordered § 87(2)(b) out of his vehicle and asked him about his prior arrests and if he had anything in his vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Iocco frisked and searched § 87(2)(b) (**Allegations B and C: Abuse of Authority**, § 87(2)(g)). PO Iocco and PO Buchanan searched § 87(2)(b)'s vehicle (**Allegations D and E: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were both arrested for § 87(2)(b), and were transported to the 111th Precinct stationhouse.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

There is no video footage for this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Eric Iocco questioned § 87(2)(b)

§ 87(2)(b) (Board Review 01) said he and § 87(2)(b) were driving in the vicinity of 29th Avenue and Utopia Parkway in Queens when PO Iocco and PO Buchanan stopped them via turret lights and sirens. § 87(2)(b) pulled over. PO Iocco and PO Buchanan approached § 87(2)(b)'s driver's and front passenger's sides, respectively. PO Iocco said § 87(2)(b) was stopped because he failed to stop at a stop sign and ordered him to produce his driver's license, registration, and insurance card. § 87(2)(b) complied. PO Iocco said § 87(2)(b)'s driver's license was invalid. § 87(2)(b) said his license was not invalid, but rather expired and that he had two years to renew it. PO Iocco ordered § 87(2)(b) and § 87(2)(b) to exit their vehicle. They complied and were escorted to the rear of § 87(2)(b)'s vehicle. PO Iocco asked § 87(2)(b) if he had anything in his vehicle. § 87(2)(b) said no. PO Iocco then asked § 87(2)(b) what happened to him in 2009, referring to a prior incident in which § 87(2)(b) was arrested for allegedly selling prescription pills. § 87(2)(b) told PO Iocco that the arrest from that incident was dismissed. § 87(2)(b) believed PO Iocco obtained information about his prior arrests by performing a warrant check on his driver's license.

Despite extensive contact attempts, § 87(2)(b) was unavailable to the investigation (Board Review 02).

PO Iocco (Board Review 03) and PO Buchanan (Board Review 04) both said they observed § 87(2)(b) fail to stop at a sign and that upon approach § 87(2)(b) provided an expired driver's license. PO Iocco ordered § 87(2)(b) out of his vehicle. He complied. § 87(2)(b) was not asked to exit and remained in the vehicle. PO Iocco asked § 87(2)(b) if he had any weapons on his person. § 87(2)(b) said no. PO Iocco said he asked § 87(2)(b) about weapons because the nature of his job requires that he assumes every civilian is possibly armed and that he always asks every civilian he interacts with about weapons. PO Iocco and PO Buchanan both did not observe any bulges on § 87(2)(b)'s person, did not see any movements inside § 87(2)(b)'s vehicle upon their approach, did not suspect § 87(2)(b) of having any weapons nor did they consider § 87(2)(b) to be under arrest. PO Iocco did not recall if he asked § 87(2)(b) about weapons in his vehicle or about his prior arrests.

The request for information must be supported by an objective credible reason, not necessarily indicative of criminality. Once an officer's questions become extended and accusatory and the officer's inquiry focus on the possible criminality of the person approached, the encounter has become a common

law of inquiry, a wholly separate level of contact, that must be supported by founded suspicion that criminality is afoot. New York v. Hollman, 79 N.Y.2d 181 (Board Review 05). To inquire about an individual's potential involvement in criminality, officers must have founded suspicion, based on specific, articulable facts, that criminality is afoot. People v. De Bour, 40 N.Y.2d 201 (1976) (Board Review 06).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Eric Iocco frisked § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Eric Iocco searched § 87(2)(b)

§ 87(2)(b) said PO Iocco placed him in handcuffs, moved his hands underneath § 87(2)(b)'s thighs and legs and around § 87(2)(b)'s genitals and buttocks through the exterior of § 87(2)(b)'s clothing § 87(2)(g)

§ 87(2)(b) PO Iocco then reached inside § 87(2)(b)'s jacket and pants pockets. § 87(2)(b) did not consent to the pat down and search of his person. § 87(2)(b) did not recall whether the pat down and search of his person yielded any results. However, in his initial complaint to IAB, § 87(2)(b) said a pocket knife was recovered from his jacket (Board Review 07). When asked to clarify these discrepancies, § 87(2)(b) said the pocket knife was recovered from his vehicle and not on his person.

As discussed earlier, the investigation was unable to obtain a statement from § 87(2)(b)

PO Iocco and PO Buchanan both said § 87(2)(b) told them that he had a knife in his pocket when he responded to PO Iocco's question about having any weapons. PO Iocco moved his hands around § 87(2)(b)'s waist down to his legs, reached inside of § 87(2)(b)'s jacket and recovered a gravity knife. PO Iocco did not recall if he entered § 87(2)(b)'s other pockets, but said § 87(2)(b) was placed under arrest for criminal possession of a deadly weapon, searched incident to arrest, and escorted to the rear of his vehicle.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Eric Iocco searched the vehicle in which § 87(2)(b) and Chris § 87(2)(b) were occupants.

Allegation (E) Abuse of Authority: Police Officer Sean Buchanan searched the vehicle in which § 87(2)(b) and Chris § 87(2)(b) were occupants.

§ 87(2)(b) said PO Iocco entered his driver's side and searched his glove compartment, underneath his front seats, the center and side consoles, and some garbage bags inside the vehicle. PO Iocco found nothing inside the vehicle and returned to the rear of § 87(2)(b)'s vehicle. PO Buchanan then entered § 87(2)(b)'s front passenger's side, but § 87(2)(b) did not see what he did inside the vehicle. PO Buchanan approached § 87(2)(b) and said he found a prescription pill bottle containing Roxicodone in the vehicle. § 87(2)(b) told PO Buchanan that the pills in the bottle were Altoids and not Roxicodone. PO Buchanan and PO Iocco both approached § 87(2)(b)'s vehicle and entered his driver's and front passenger's sides, respectively. PO Iocco and PO § 87(2)(b) returned to the rear of § 87(2)(b)'s vehicle a minute later and said they recovered a broken 3-inch Swiss army knife from the center console, and a 1/2

gram of cocaine from a garbage bag that was inside the vehicle. § 87(2)(b) said the knife belonged to him and § 87(2)(b) said the cocaine belonged to him. The officers said the knife was a gravity knife and arrested § 87(2)(b) for criminal possession of a weapon. The officers also arrested § 87(2)(b) for having an open warrant and for criminal possession of a controlled substance. § 87(2)(b) did not know why his vehicle was searched nor did he consent to the search of his vehicle.

As discussed earlier, the investigation was unable to obtain a statement from § 87(2)(b)

PO Iocco and PO Buchanan both said the recovery of the gravity knife from § 87(2)(b)'s jacket led them to believe § 87(2)(b) possibly had other weapons or contraband in his vehicle. PO Buchanan thus ordered § 87(2)(b) out of the vehicle, escorted § 87(2)(b) to the rear of § 87(2)(b)'s vehicle, and remained at the rear with both § 87(2)(b) and § 87(2)(b). PO Buchanan did not enter and search § 87(2)(b)'s vehicle. PO Iocco entered § 87(2)(b)'s driver's side and searched the immediate areas of the front seats for weapons. PO Iocco did not recall where in the vehicle he searched, except that he found a small glass jar containing cocaine on the floor of the front passenger's seat. § 87(2)(b) said the cocaine was his and he was placed under arrest for criminal possession of a controlled substance. PO Iocco denied that the gravity knife was recovered from § 87(2)(b)'s vehicle and said the sole purpose for searching § 87(2)(b)'s vehicle was because § 87(2)(b) was under arrest for possession of a deadly weapon.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (Board Review 08, Board Review 09).
- PO Iocco has been a member-of-service for 10 years and this is the first CCRB complaint to which he has been a subject.
- PO Buchanan has been a member-of-service for four years and has been a subject in one CCRB complaint and two allegations, none of which were substantiated, § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 20, 2018, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 10).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____ _____ _____
 Signature Print Title & Name Date

Squad Leader: _____ _____ _____
 Signature Print Title & Name Date

Reviewer: _____ _____ _____
 Signature Print Title & Name Date